IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

WRIT PETITION NO. 1190 (M/S) OF 2001
(Old No. 11213/1993)

Smt. Omwati and others……Petitioners.

Vs.

Raj Kapoor and others……Respondents.

Hon'ble Rajesh Tandon, J.

Heard learned parties at great length.

By the present writ petition the petitioner has challenged the order passed by the Additional District & Session Judge, Haridwar by which a sum of Rs. 300/- to the wife and Rs. 200/- each to the children Manish and Sudhish has been awarded. Revisional court has directed that the amount, which the petitioner is receiving from the proceedings under Section 24 of Hindu Marriage Act, shall be deducted from the maintenance amount, which has been granted in favour of the petitioner in proceedings under Section 125 of the Code of Criminal Procedure.

From a perusal of the order it shows that the application was allowed by the Additional Munsif Magistrate to the extent of Rs. 250/- and for the children Rs. 150/- each which has been enhanced by the Revisional Court by granting a sum of Rs. 300/- to the wife and Rs. 200/- each to the children.

The order by which the direction has been made for deducting the amount, which the petitioner is receiving in proceedings u/s 24 of Hindu Marriage Act is illegal in as much as both the proceedings are separate, and the petitioner is entitled

to receive the maintenance amount from the proceedings u/s 125 of Cr.P.C. separately. The amount of maintenance which the petitioner is getting u/s 24 of Hindu Marriage Act cannot be deducted from the proceedings u/s 125 of Cr.P.C.

In view of the aforesaid fact, the writ petition is disposed of.

Dt. 27.8.2004 **(Rajesh Tandon, J.)**

P.B.